

SENATE No. 670

The Commonwealth of Massachusetts

PRESENTED BY:

Barbara A. L'Italien

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act creating a right to representation for college students in some school disciplinary matters.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|-----------------------------|-----------------------------------|
| <i>Barbara A. L'Italien</i> | <i>Second Essex and Middlesex</i> |
| <i>Mary S. Keefe</i> | <i>15th Worcester</i> |
| <i>Brian R. Mannal</i> | <i>2nd Barnstable</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> |

SENATE No. 670

By Mrs. L'Italien, a petition (accompanied by bill, Senate, No. 670) of Barbara L'Italien, Mary S. Keefe, Brian R. Mannel and Kay Khan for legislation to create a right to representation for college students in some school disciplinary matters. Higher Education.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act creating a right to representation for college students in some school disciplinary matters.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. CERTAIN NONACADEMIC DISCIPLINARY PROCEEDINGS; RIGHT
2 TO REPRESENTATION.

3 (a) A student enrolled in an institution of higher education, or a student organization
4 officially recognized by the institution, has the right to be represented, at the student's or
5 organization's expense, by a licensed attorney (or, if the student, students, or student organization
6 prefers, a non-attorney advocate) in any disciplinary proceeding initiated by the institution
7 against the student or organization, as applicable, relating to an allegation that the student or
8 organization has violated the institution's disciplinary or conduct rules, where the charges are
9 punishable by a suspension of 10 or more days or expulsion. The attorney or advocate may fully
10 participate in the disciplinary proceeding.

11 (b) For purposes of this section, "disciplinary proceeding" includes an investigatory
12 interview or hearing or any other procedure conducted by the institution of higher education

13 relating to the alleged violation that the student or student organization reasonably believes may
14 result in disciplinary action against the student or organization, as applicable.

15 (c) In disciplinary proceedings arising from a complaint by a student or students against
16 another student or students, where the charges are punishable by a suspension of 10 or more days
17 or expulsion, both the accused student(s) and the student complainant(s) shall have the right to be
18 represented, at their own expense and at their sole discretion, by a licensed attorney (or, if the
19 student or students prefer, a non-attorney advocate) who may fully participate during any
20 disciplinary procedure or other procedure adopted and used by the institution of higher education
21 regarding the alleged violation.

22 (d) Before a student may be questioned by an institution of higher education or by an
23 agent of the institution of higher education about allegations of violations of the institution's
24 disciplinary or conduct rules, where the charges are punishable by a suspension of 10 or more
25 days or expulsion, the university must advise the student of his or her rights under this Act.

26 (e) This Act does not apply to disciplinary proceedings regarding allegations of academic
27 dishonesty as defined by the applicable institution of higher education; and

28 (f) This Act does not create a right to representation at a disciplinary proceeding of an
29 institution of higher education at public expense.

30 SECTION 2. Upon discovering any exculpatory evidence related to a student under
31 investigation for or charged with a crime, the school administration or law enforcement
32 component of any post secondary state or private educational institution in the commonwealth
33 shall immediately notify, in writing, the relevant law enforcement agency, federal prosecutor,

34 district attorney, or the state attorney general, as well as the student, of the exculpatory
35 evidence."

36 SECTION 3. Nothing in this Act shall be deemed to prevent the temporary suspension of
37 a student pending an investigation.

38 SECTION 4. (a) Any student who is suspended or expelled from an institution of higher
39 education in violation of this Act, or any student organization that is sanctioned in violation of
40 this Act, may bring an action in any Massachusetts Trial Court of competent jurisdiction.

41 (b) In an action brought under this Act, if the State Court finds a violation of this Act, the
42 Court may award the aggrieved person or student organization Compensatory damages,
43 reasonable court costs, and attorneys' fees, including expert fees, monetary damages of not less
44 than the cost of tuition paid by the student or on the student's behalf to the institution of higher
45 education for the semester during which the violation of the Act occurred plus monetary
46 damages of not less than the amount of any scholarship funding lost as a result of the campus
47 discipline, and any other relief in equity or law as deemed appropriate including, but not limited
48 to, a de novo rehearing at the institution of higher education, in accordance with this section.

49 (c) A person or student organization must bring suit for violation of this Act not later than
50 one year after the day the cause of action accrues. For purposes of calculating the one-year
51 limitation period, the cause of action shall be deemed accrued on the date that the student or
52 student organization receives final notice of discipline from the educational institution.

53 SECTION 5. This Act is effective when it becomes law and applies to all allegations of
54 violations beginning on or after that date.